
HOUSE BILL 2635

State of Washington

62nd Legislature

2012 Regular Session

By Representatives Takko, Warnick, Haigh, Appleton, Chandler, Wylie, and Johnson

Read first time 01/19/12. Referred to Committee on State Government & Tribal Affairs.

1 AN ACT Relating to waiving and clarifying certain requirements for
2 port district small public works projects; and amending RCW 53.08.120
3 and 53.08.135.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 53.08.120 and 2009 c 74 s 2 are each amended to read
6 as follows:

7 (1) All material and work required by a port district (~~not meeting~~
8 ~~the definition of public work in RCW 39.04.010(4)~~) may be procured in
9 the open market or by contract and all work ordered may be done by
10 contract or day labor.

11 (2)(a) All such contracts for work meeting the definition of
12 "public work" in RCW 39.04.010(4), the estimated cost of which exceeds
13 three hundred thousand dollars, shall be awarded using a competitive
14 bid process. The contract must be awarded at public bidding upon
15 notice published in a newspaper of general circulation in the district
16 at least thirteen days before the last date upon which bids will be
17 received, calling for bids upon the work, plans and specifications for
18 which shall then be on file in the office of the commission for public
19 inspection. The same notice may call for bids on such work or material

1 based upon plans and specifications submitted by the bidder. The
2 competitive bidding requirements for purchases or public works may be
3 waived pursuant to RCW 39.04.280 if an exemption contained within that
4 section applies to the purchase or public work.

5 (b) For all contracts related to work meeting the definition of
6 "public work" in RCW 39.04.010(4) that are estimated at three hundred
7 thousand dollars or less, a port district may let contracts using the
8 small works roster process under RCW 39.04.155 in lieu of advertising
9 for bids. Whenever possible, the managing official shall invite at
10 least one proposal from a minority contractor who shall otherwise
11 qualify under this section.

12 When awarding such a contract for work, when utilizing proposals
13 from the small works roster, the managing official shall give weight to
14 the contractor submitting the lowest and best proposal, and whenever it
15 would not violate the public interest, such contracts shall be
16 distributed equally among contractors, including minority contractors,
17 on the small works roster.

18 (c)(i) For contracts for work meeting the definition of "public
19 work" as defined in RCW 39.04.010(4), the estimated cost of which is
20 between five thousand dollars and thirty-five thousand dollars, port
21 districts are exempt from the requirements of RCW 53.08.130 and may
22 award contracts based on price quotations received from responsible
23 contractors. Port districts shall reasonably attempt to equitably
24 distribute the opportunity to provide price quotations among
25 responsible contractors that perform similar services. Contractors do
26 not need to be listed on the port district's small works roster to be
27 eligible. Contracts may not be negotiated after receipt of the price
28 quotation or be amended by the addition of work that was not included
29 within the intent of the original price quotation.

30 (ii) For contracts for work meeting the definition of "public work"
31 as defined in RCW 39.04.010(4), the estimated cost of which does not
32 exceed five thousand dollars, port districts are exempt from the
33 requirements of RCW 53.08.130 and any advertisement and competitive
34 bidding requirements.

35 (iii) All price quotations for public work procured under this
36 subsection (2)(c) must be logged and be open to public inspection and
37 made available electronically by request.

1 (iv) Any port district procuring public work under this subsection
2 (2)(c) shall not break apart larger scopes of work for the purpose of
3 avoiding the public bidding requirements under RCW 53.08.130.

4 (d) Any work performed under this subsection (2) is subject to the
5 requirements of chapter 39.12 RCW. For projects with estimated costs
6 not exceeding five thousand dollars, a port district may utilize the
7 alternative prevailing wage procedures as described in RCW
8 39.12.040(2).

9 (e) A port district may waive the payment and performance bond
10 requirements under chapter 39.08 RCW or the retainage requirements
11 under chapter 60.28 RCW, or both, for projects performed under (c) of
12 this subsection.

13 (f) A port district electing to waive payment and performance bonds
14 under (c) of this subsection assumes the liability for the contractor's
15 and his or her subcontractors' nonpayment of laborers, mechanics,
16 subcontractors, materialpersons, and suppliers. The port district has
17 the right of recovery against the contractor for any payments made on
18 the contractor's or his or her subcontractors' behalf.

19 (g) A port district electing to waive the retainage requirements
20 under (c) of this subsection assumes the liability for the contractor's
21 or his or her subcontractors' nonpayment of laborers, mechanics,
22 subcontractors, materialpersons, suppliers, and taxes imposed under
23 Titles 50, 51, and 82 RCW. The port district has the right of recovery
24 against the contractor for any payments made on the contractor's or his
25 or her subcontractors' behalf.

26 (h) A port district electing to waive payment and performance bonds
27 or retainage, or both, under (c) of this subsection must establish and
28 adopt procedures implementing the requirements of this section.

29 (3) A port district may meet the notification requirements under
30 RCW 39.04.020 by publishing an annual notification before beginning the
31 public work that describes the nature and value of the work to be
32 performed.

33 **Sec. 2.** RCW 53.08.135 and 1982 c 92 s 2 are each amended to read
34 as follows:

35 Port districts (~~shall~~) may determine if (~~any~~) construction
36 projects over forty thousand dollars can be accomplished (~~less~~

1 ~~expensively~~) more efficiently by contracting out. If contracting out
2 is (~~less expensive~~) more efficient, the port district may contract
3 out such project.

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